

04/23/09



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue
Seattle, Washington 98101

APR 23 2009

Reply To
Attn Of: ECL-111

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Colonel Roger A. Wilson, Jr.
District Commander, Kansas City District
U.S. Army Corps of Engineers
601 E 12th St.
Kansas City, MO 64106-2896

Re: Request for Information Pursuant to Section 104(e) of CERCLA for the Lower
Duwamish Waterway Superfund Site ("LDW Site"), Seattle, Washington

Dear Colonel Wilson:

The LDW Site is located in Seattle, King County, Washington. Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the "Superfund" law, the Environmental Protection Agency (EPA) is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants. EPA has documented that such a release has occurred at the LDW Site.

The U.S. Army, on behalf of the Department of Defense (DOD), is the executive agent for the Defense Environmental Program for Formerly Used Defense Sites (FUDS). Program management and execution responsibility for the program rests with U.S. Army Corps of Engineers (USACE). Several FUDS are located within or adjacent to the LDW Site. This letter is being sent to the Kansas City District as the current FUDS Program Management District for the area in which the LDW site is situated.

Sections 104(e) and 120(a) of CERCLA, 42 U.S.C. §§ 9604(e) and 9620(a), stipulate that you or your designee(s) respond to the Information Request enclosed with this letter by providing information and documents relating to each FUDS located within or adjacent to the LDW Site. EPA expects that a reasonable effort will be made to locate relevant documents and information, and that your response to this request will be supplemented in the event that additional materials are discovered at a later time.

The types of information being sought include, but are not limited to, facility locations, property acquisition and disposal data, use of each property by the DOD

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(including contractors), condition of each property prior to and subsequent to DOD occupancy, alterations and improvements to each property during DOD's occupancy, potential or confirmed releases of hazardous substances or pollutants or contaminants, and anything relating to environmental conditions or impacts at those locations.

Please provide a complete response to the enclosed Information Request within sixty (60) days of your receipt of this letter. Your response to this Information Request should be mailed to:

United States Environmental Protection Agency, Region 10
Claire Hong, Remedial Project Manager
Environmental Cleanup Office, ECL-111
1200 Sixth Ave. Suite 900
Seattle, Washington 98101

If you have questions concerning this letter or the LDW Site, please contact Claire Hong at (206) 553-1813. If you believe that you have received this request in error, please inform Ms. Hong so that it can be redirected to the appropriate recipient. Any communication by any attorney on your behalf should be directed to Alexander Fidis, EPA Office of Regional Counsel, at (206) 553-4710.

Thank you for your cooperation in this matter.

Sincerely,



Sheila Eckman, Unit Manager
Site Cleanup Unit #3
Office of Environmental Cleanup

Enclosures:

Information Request
Definitions
Instructions
Declaration

cc: Dan Cargill, Ecology/NWRO
Earl H. Stockdale, U.S. Army Corps of Engineers
Phillip J. Steffen, U.S. Army Corps of Engineers
John H. Eft, U.S. Army Corps of Engineers
Kevin W. Bond, U.S. Army Corps of Engineers
Russell Young, EDS Section Chief, Department of Justice
Bob Maher, EES Section Chief, Department of Justice
Ford Motor Company
General Services Administration

U.S. EPA

CERCLA SECTION 104(e)

INFORMATION REQUEST

Site: Lower Duwamish Waterway Superfund Site (LDW Site), Seattle WA

DERP-FUDS Site Number, Name and Location

[To be entered by Respondent for each FUDS as defined in this Request and situated within the boundaries described below]

For present purposes, the area of interest is bounded by SW Spokane Street on the north, S 112th Street on the south, and a distance one mile east and one mile west of the respective banks of the Duwamish Waterway.

Please note: this Information Request includes instructions for responding to this request and definitions of words such as "FUDS," "Respondent," and "identify" used in the questions.

INFORMATION REQUEST QUESTIONS

1. Respondent Information

- a. Provide the full legal name and mailing address of the Respondent.
- b. For each person answering these questions on behalf of Respondent, provide:
 - i. full name;
 - ii. title;
 - iii. business address; and
 - iv. business telephone number and FAX machine number.
- c. If Respondent wishes to designate an individual for all future correspondence concerning this matter, please indicate here by providing that individual's name, address, telephone number, and fax number.
- d. State the dates during which the Department of Defense (DOD) held any property interests at or within one-half mile of the FUDS.

- e. State the dates during which DOD conducted any activities at or within one-half mile of the FUDS.
- f. Describe the nature of DOD's activities at the FUDS or within one-half mile of the FUDS.
- g. In relation to your answer to the previous question, identify all materials used or created by DOD's activities at the FUDS, including raw materials, commercial products, building debris, and other wastes.

2. Site Activities and Interests

- a. Provide all documents in your possession or accessible to you regarding the ownership of the FUDS before, during and after DOD control, including, but not limited to, copies of deeds, sales contracts, leases, blueprints, "as-builts" and photographs.
- b. Provide all documents in your possession or accessible to you regarding the environmental conditions at the FUDS before, during and after the relevant time period (see Definitions). "Environmental conditions" includes information relating to soil, sediment, water (ground and surface), and air quality. This may include, but not be limited to:
 - i. Any spill, leak, release or discharge of a hazardous substance, waste, or material at or near the FUDS;
 - ii. Occurrences of violations, citations, deficiencies, and/or accidents concerning the FUDS;
 - iii. Remediation or removal of contaminated soils, sediments, or other media at the FUDS; and
 - iv. Investigations, inspections, sampling, and any associated reports regarding the FUDS and surrounding area.
- c. Provide information on the condition of the FUDS when purchased or at the beginning of the relevant time period; describe the source, volume, and content of any fill material used during the construction of the buildings, including waterside structures such as seawalls, wharves, docks, or marine ways. Additionally, describe any subsequent improvements, alterations, demolitions or additions to the physical structures or the property itself.
- d. Provide a brief summary of the activities conducted at the FUDS while under DOD's ownership or operation. Include any diagrams or charts of the activities conducted.

- d. Provide all documents pertaining to sale, transfer, delivery, or disposal, of any hazardous substances, scrap materials, and/or recyclable materials at or to the FUDS.
- e. Provide all information on electrical equipment used at the FUDS, including transformers or other electrical equipment that may have contained polychlorinated biphenyls (PCBs).
- f. Provide information on the type(s) of oils or fluids used for lubrication of machinery or other industrial purposes, and any other chemicals or products which are or may contain hazardous substances which are or were used at the FUDS for facility operations.
- g. Provide any site drainage descriptions, plans or maps that include information about storm drainage which includes, but is not limited to, above or below surface piping, ditches, catch basins, manholes, and treatment/detention or related structures including outfalls. If available, also include information about connections to sanitary sewer.
- h. With respect to past site activities, please provide copies of any stormwater or drainage studies, including data from sampling, conducted at the FUDS. Also provide copies of any Stormwater Pollution Prevention or Maintenance Plans or Spill Plans that may have been developed for operations or activities at the FUDS.

3. Information About Others

- a. Describe any business relationship DOD may have had regarding the FUDS, or operations thereon, with others.
- b. Provide the names and last known address of any tenants or lessees, the dates of their tenancy and a brief description of the activities they conducted while operating on the FUDS.
- c. If not already provided, identify and provide a last known address or phone number for all persons, including current and former employees or agents, other than attorneys, who have knowledge or information about the generation, use, purchase, storage, disposal, placement, or other handling of hazardous materials at, or transportation of hazardous materials to or from, the FUDS.

4. Compliance with This Request

- a. Describe all sources reviewed or consulted in responding to this request, including, but not limited to:
 - i. name and current job title of all individuals consulted;
 - ii. location(s) where all documents reviewed are currently kept.

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INSTRUCTIONS

1. Answer Each Question Completely. Provide a separate answer to each question and subpart set forth in this Information Request.
2. Response Format and Copies. Provide the responses to this Information Request and at least one copy of all requested documents either electronically or on paper (hard copy). Your submission, whether electronic or hard copy, must include an index that lists all the responsive documents provided, and that indicates where each document is referenced in the written response, and to which question or questions each document is responsive. If providing your response electronically, it must be submitted on a compact disc in Portable Document Format (PDF) and comply with the following requirements:
 - a. The declaration must be provided in hard copy with an original signature.
 - b. All documents originally smaller than 11 by 17 inches can be submitted electronically; any documents originally larger than 11 by 17 inches must be submitted in hard copy.
 - c. Electronic PDF files cannot be submitted in Adobe Acrobat versions above 6 (or above PDF format version 1.5 if not using Adobe).
 - d. Electronic PDF files must be text-searchable.
 - e. The document index must clearly identify any single electronic document which has been separated into multiple electronic files (because of size limitation or otherwise) and each component file that comprises the full document.
3. Provide a Separate Response for Each FUDS. For each FUDS site, as defined in the Definitions, please provide a separate and complete response to this Information Request. Each FUDS site should be identified by the DERP-FUDS site number, name, and location at the top of the questionnaire response.
4. Number Each Answer. Number each answer with the number of the question to which it corresponds.
5. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. Seek out responsive information from current and former employees/agents.
6. Identify Information Sources. For each question, identify all persons and documents relied upon for the answer.
7. Protected Material. The information requested herein must be provided even though the Respondent may contend that it includes protected material or confidential information.

The Respondent may assert a confidentiality claim covering part or all of the information requested, pursuant to 42 U.S.C. §§ 9604(e)(7)(E) and (F), and 40 C.F.R. § 2.203(b). All information claimed to be protected or confidential should be contained on separate sheet(s) and should be clearly identified as "protected material" or "confidential." Information covered by a confidentiality claim will be disclosed by EPA only to the extent, and only by means of the procedures, provided in 40 C.F.R. §§ 2.201-2.311. **If no such claim accompanies the information received by EPA, it may be made available to the public by EPA without further notice.**

8. Disclosure to EPA Contractor. Information submitted in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. § 2.310(h), even if the Respondent asserts that all or part of it is protected material. EPA may provide this information to its contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If submitting information and asserting it is entitled to treatment as protected material, the Respondent may comment on EPA's intended disclosure within 14 days of receiving this Information Request.
9. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy, should be segregated from responses, included on separate sheet(s), and marked as "Personal Privacy Information". Note, however, that unless prohibited by law, EPA may disclose this information to the general public without further notice.
10. Objections. The Respondent must provide responsive information notwithstanding objections to certain questions.
11. Privilege. If a privilege is asserted for any document responsive to this Information Request, identify the document and provide the basis for assertion. If a privilege exists for only a portion of a document, provide the portion of the document that is not asserted be privileged, identify the portion that is asserted to be privileged, and provide the basis for asserting privilege. **Please note that regardless of the assertion of any privilege, any facts contained in the document which are responsive to the Information Request must be disclosed in your response.**
12. Declaration. The Respondent must complete the enclosed declaration, certifying the accuracy of all statements in your response.

DEFINITIONS

All terms not defined herein shall have their ordinary meaning, unless such terms are defined in Section 101 of CERCLA, 42 U.S.C. § 9601, *et seq.*, or Title 40 of the Code of Federal Regulations (CFR), in which case such statutory or regulatory definitions shall apply.

The following definitions shall apply to the following words as they appear in this Enclosure:

1. The term "Respondent" shall mean the addressee of this Request, together with the addressee's agents, employees, and contractors.
2. The terms "document" and "documents" shall mean any method of recording, storing, or transmitting information. "Document" shall include, but not be limited to:
 - a. writings of any kind, including, but not limited to, any of the following:
 - i. letters, memoranda, fax transmittals;
 - ii. meeting minutes, telephone records, notebooks;
 - iii. agreements and contracts;
 - iv. reports to shareholders, management, or government agencies;
 - v. transportation manifests;
 - vi. copies of any document.
 - b. any film, photograph, or sound recording on any type of device;
 - c. any blueprints or drawings;
 - d. attachments to, or enclosures with, any document.
3. The term "identify" means, with respect to a natural person, to set forth: (a) the person's full name, (b) present or last known business and home addresses and telephone numbers; and (c) present or last known employer (include full name and address) with job title, position, or business.
4. The term "identify" means, with respect to an agency, a corporation, partnership, business trust, or other entity, to set forth: (a) its full name; (b) complete street address; (c) legal form (e.g., corporation, partnership, etc.); (d) the state under whose laws the entity was organized; and (e) a brief description of its business.

5. The term "identify" means, with respect to a document, to provide: (a) its customary business description (e.g., letter, invoice); (b) its date; (c) its number if any (e.g., invoice or purchase order number); (d) the identity of the author, addressee, and/or recipient; and (e) a summary of the substance or the subject matter. Alternatively, Respondent may provide a complete copy of the document.
6. The term "material" or "materials" shall mean any and all raw materials, commercial products, wastes, chemicals, substances, or matter of any kind.
7. The "period being investigated" and "the relevant time period" shall mean the date of DOD's first involvement at or with the FUDS, to the date when its involvement at or with the property ceased.
8. The term "property" shall mean any interest in real or personal property whatsoever, including fee interests, leases, licenses, rental, and mineral rights.
9. The term "waste" or "wastes" shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants, whether solid, liquid, or sludge, including, but not limited to, building debris and asbestos-containing material.
10. The term "activities" shall mean all actions, endeavors, ventures, or financing arrangements related in any manner whatsoever to the use and development of the FUDS, including surveying, sampling, grading, documentation, photography, demolition, construction, and waste disposal, and sales.
11. The term "Formerly Used Defense Site" or "FUDS" is "... defined as real property that was under the jurisdiction of the Secretary [of Defense] and owned by, leased by, or otherwise possessed by the United States (including governmental entities that are the legal predecessors of DoD or its Components) and those real properties where accountability rested with DoD but where the activities at the property were conducted by contractors (i.e., government-owned, contractor-operated [GOCO] properties) that were transferred from DoD control prior to 17 October 1986. The FUDS eligibility status of former DoD property is not affected by its being the current responsibility of another federal agency." (ER 200-3-1, Environmental Quality, Formerly Used Defense Sites [FUDS] Program Policy, 10 May 2004, 3-1.5.1.1, p. 3-5)

DECLARATION

I declare under penalty of perjury that I am authorized to respond on behalf of Respondent and that the foregoing is complete, true, and correct.

Executed on _____, 2009.

Signature

Type or Print Name

Title

Mailing Address:

Colonel Roger A. Wilson, Jr.
District Commander, Kansas City District
U.S. Army Corps of Engineers
601 E 12th St.
Kansas City, MO 64106-2896